

REMARKS

This paper responds to the Office Action of January 10, 2005 in which the Examiner commented on inventorship and priority, objected to the drawings and suggested a clarification in claims 8 and 9. The Examiner rejected all the claims under 35 U.S.C. § 103 as unpatentable in view of combinations of Berman, Wotrlich et al., Schultz et al. '259 and '316, and Sancoff et al.

By the above amendments in the specification, drawings and claims, this paper acknowledges and addresses the Examiner's comments on inventorship and priority, addresses the objection to the drawings, and adopts the Examiner's suggestion regarding claims 8 and 9.

The 35 U.S.C. § 103 rejections of the claims are traversed in view of the clarifying amendments in claim 1, and for the following reasons.

Independent claim 1, as amended, is directed to a system for removing vapors and particles from a pressurized surgical site, the system comprising a fluid pathway including an intake end and a return end, both ends being in fluid communication with a the pressurized surgical site, a flow generating device in the fluid pathway between the intake end and the return end, and a filter in the fluid pathway between the intake end and the return end, wherein the flow generating device generates a flow rate through the system of approximately 0.2 to approximately 4.5 liters per minute for a fluid comprising insufflation gases.

Simply put, none of the documents cited by the Examiner, or any proper combination thereof, discloses or suggests the compact system of claim 1, wherein a fluid pathway extends between an intake end and a return end, both of which are in fluid communication with a pressurized surgical site, and a flow generating device and a filter are in the fluid pathway between the intake end and the return, wherein the flow generating device and the filter are generally immediately adjacent to the surgical site when the system is in use and wherein the flow generating device generates a flow rate through the system of approximately 0.2 to approximately 4.5 liters per minute.

The Berman system requires a remote drive console 22, 122 which is where a pump 74, 142 is located. A web of elongated tubes is required. As noted by the Examiner, no flow rate is disclosed or suggested.

The Wortrich et al document does not disclose or suggest a system including a flow generating device, nor does it disclose or suggest the specific flow rate recited in claim 1.

The Schultz et al. documents do not disclose or suggest a system including a flow generating device.

The Sancoff et al. document is directed to an infusion system including a peristaltic pump which is not in fluid communication with the fluid being pumped, i.e., it is not in-line.

With regard to the various combination asserted by the Examiner, even if they were proper, the result would be a smoke evacuation system requiring a remote pump as taught by Berman or a separate pump as taught by Sancoff et al. The asserted combinations would not teach one skilled in the art how to achieve the compact, self-contained system of claim 1, wherein a flow generating device and a filter are in a fluid pathway between an intake end and the return, and wherein the flow generating device and the filter are generally immediately adjacent to a surgical site when the system is in use and the flow generating device generates a flow rate through the system of approximately 0.2 to approximately 4.5 liters per minute.

Claims 2-17 depend directly or indirectly from claim 1. Each is allowable for at least the same reasons.

This paper is based on consideration of the disclosures and teachings of the documents cited by the Examiner. This is not to be construed, however, as an admission that all of the cited documents are prior art, and applicant may show that one or more may not be prior art by date or other reason. The point is that, even assuming all the cited documents are prior art (which they may not be), they fail to disclose or teach the present invention.

No additional fees have been generated by this paper, but a petition to extend the time to respond is submitted herewith, along with a check to cover the fee associated with the petition.

The Office is also hereby authorized to charge any fee deficiency associated with this paper or the petition to Deposit Acct 04-1420.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date:

June 27, 2005

By:



David E. Bruhn
Reg. No. 36,762

AMENDMENTS TO THE DRAWINGS

The attached annotated drawing sheet shows changes in Fig. 13. In Figure 13, character "S" has been changed in accordance with the Examiner's comments, i.e., the quotation marks have been deleted. A replacement sheet reflecting the changes is also attached.

Attachments: Replacement Sheet

Annotated Sheet Showing Changes



70

